IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

THURSDAY, THE NINETEENTH DAY OF AUGUST
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE V.V.S.RAO

WRIT PETITION NO : 20200 of 1999

Between:

1. B. Madhava Reddy, s/o. B.Nagi Reddy.

2. A. Eswaraiah, s/o. A.Pedda Chendrayudu.

3. A.Laxminarayana, s/o. A.Chinna Chendrayudu.

4. K.Tippanna, s/o. late Pedda Muddanna.

5. A.Ramanjaneyulu, s/o. A.Balanna.

6. K.Adinarayana, s/o. K.Obanna.

7. V.Obi Reddy, s/o. V.Narayana Reddy.

8. A.Potalaiah, s/o. A.Balanna.

9. V.Ramachandra Reddy, s/o. V.Chenna Reddy.

10. S.Ismail Achari, s/o. Patnam Achari.

11. B.Malarayudu, s/o. B.Narayana.

12. A.Sriramulu, s/o. A.Pedda Lingamaiah.

13. A.Ramalingamaiah, s/o. A.Laxmanna.

14. B.Kristaiah, s/o. B.Nallappa.

15. P.Balalingamaiah, s/o. Mekala Narayana.

16. H.Venkatram Reddy, s/o. H.Konda Reddy.

17. S.Venkatrayudu, s/o. Narappa.

18. G.Peddanna.

19. J.Ganganna, s/o. Sunkanna.

20. S.Parvatamma, w/o. S.Pothalaiah.

21. A.Arunamma, w/o. A.Lingamaiah.

22. A.Akkamma, w/o. A.Peddalingamaiah.

23. S.Anjinamma, w/o. S. Pothalaiah.

24. S.Peddakka, w/o. S.Polanna.

25. K.Laxmi Devi, w/o. K.Rajanna.

26. A.Laxmi Devi, w/o. A.Polanna.

27. S.Sivamma, w/o. Laxmi Reddy.

28. S.Malleswaramma, w/o. S.Chinnakullayappa.

29. S.Nagalaxmi, w/o. S.Nagalingaiah.

30. S.Anjinamma, w/o. S.Obulesu.

31. O.Ramasubbamma, w/o. O.Narayana Reddy.

32. K.Narayana Swamy, s/o. late K.Nadipi Narayana.

(all are residents of Kandukur Village,

Anantapur Mandal, Anantapur District)

... PETITIONERS

AND

1. Food Corporation of India, Regional Office,

Hyderabad, rep.by Senior Regional Manager.

2. The District Manager, Food Corporation of India,

Kurnool.

....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue writ of mandamus or any other appropriate writ or direction declaring the action of the respondents in not appointing the petitioners under DPS system even though they satisfy the conditions as mentioned in letter of the Deputy Manager (IRL) FCI Head Office, New Delhi has issued letter No.IR(L)/3(2)/97 as illegal, arbitrary and consequently direct the respondents to appoint the petitioners under DPS system.

Counsel for the Petitioners : MR.O.MANOHER REDDY

Counsel for the Respondent No.1 : MR.A.RAJASHEKAR REDDY (SC FOR CG)

Counsel for Respondent No.2 : Mr. B.Anjaneyulu

The Court made the following :

O R D E R :

The 32 petitioners are residents of Kandukuru village. They claim and allege that they were engaged as ancilliary labourers in the Godowns belonging to Food Corporation of India (FCI), the respondents herein at Janagalapalli Godown. They also allege that they were paid wages through the contractors since 1993 though the job is of perennial nature and they were also paying contributions towards Provident Fund. Their grievance is that though the FCI has introduced Direct Payment System (DPS) by their letter Fax No.IR(L)/3(2)/97, dated 30-7-1997, the petitioners were not admitted to the DPS scheme. They further assert that they are squarely covered by the Circular issued by the FCI introducing DPS scheme and denial of the same is arbitrary. Therefore, they seek a mandamus directing the respondents to admit the petitioners under DPS scheme. This Court while admitting the writ petition directed the respondents to consider the representations made by the petitioners and pass appropriate orders in the matter.

It is now brought to my notice that the respondents have considered the representations of the petitioners and passed orders on 31-7-2000 rejecting the request of the petitioners to be brought under DPS scheme. A copy of the said proceedings is also placed before this Court. Be it also noted that the petitioners have not specifically challenged the proceedings dated 31-7-2000 of the second respondent rejecting their claim to come under DPS scheme.

In the counter affidavit filed by the second respondent, it is categorically stated that the petitioners never worked as ancilliary labourers in FCI Godowns situated at Janagalapalli Village and that they were not admitted as members of the Kandukuru Gramabyudaya Hamals Contract Labour Cooperative Society Limited, which shows that they never worked as ancilliary labourers in 1993 and that there is no privity of contract between the FCI and the petitioners.

There is a serious dispute as to the question whether the petitioners are, indeed, ancilliary labourers working at the FCI Godowns. The learned counsel for the petitioners has placed strong reliance on the averment made in para-2 of the writ affidavit. However, the said averment has been categorically denied by the second respondent in the counter affidavit and no reply affidavit is filed. Further, though the counter affidavit is filed in 1999, no material is placed before this Court in support of the contention that they worked as ancilliary labourers. Be that as it is, insofar as payment of E.P.F. arrears is concerned, in proceedings dated 31-7-2000 the District Manager observed that E.P.F. arrears were paid on the same day by all the petitioners, which cannot be a factor for determining whether they are workers or not?

With the assistance of the learned counsel, I have gone through the DPS scheme and as rightly contended by the learned standing counsel for FCI the petitioners are not covered by the said scheme. The petitioners also failed to show that they have any inherent right which can be enforced in the writ petition.

Therefore, the writ petition is dismissed without any order as to costs.

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(V.V.S. RAO, J.)

Dt.19-08-2004.

Msr.

To

1. The Senior Regional Manager, Food Corporation of India,

Regional Office, Hyderabad.

2. The District Manager, Food Corporation of India,

Kurnool.

3. 2CD copies

HON'BLE SRI JUSTICE V.V.S. RAO

WRIT PETITION No.20200 of 1999

Dt.19-08-2004.

(Msr)